CLASSIFICATION OFFICE DECISION

Title of publication:	24
Other known title(s):	Not stated
OFLC ref:	2000108.023
Medium:	Image File
Maker:	Not stated
Country of origin:	Not stated
Language:	Not applicable
Applicant:	The District Court at Auckland
Classification:	Objectionable except if in the possession of the subject of the image.
Descriptive note:	None
Display conditions:	None
Date of entry in Register:	30 April 2020
Date of direction to issue a label:	No direction to issue a label has been issued
Date of notice of decision:	No notice of decision has been issued

Summary of reasons for decision:

The image is classified objectionable under s 3(3)(b) except if its availability is restricted to the person depicted in the image. The image is a selfie of a partially nude girl. It is reasonably capable of a sexual reading given the focus on her genital area. Its availability is likely to be injurious to the public good. There is potential for harm in allowing this image to be shared among those who have a salacious interest in images of nude teenage girls. However, the Classification Office notes that nude or partially nude selfies taken by children or young people are now ubiquitous in this era of camera phones and social media – existing as an avenue of self-expression. Criminalising children or young people for this activity by making such images objectionable is not the intention of the Classification Office. Such a classification would not best serve the wider public good. This image appears to have been taken by and for the use of its subject for an undisclosed purpose. Although the image can be considered objectionable because of the high degree to which it exploits the girl's nudity, the Classification Office considers that this would be unreasonable as it would criminalise its young subject. The only reasonable outcome is to restrict the availability of the image to its subject. This classification will, without criminalising the girl for possessing an image of herself, mean that any other person in possession of this image is in breach of that restriction. In a Bill of Rights framework this classification is reasonable and justified in that it reflects parliament's concern to protect young people from exploitation and also takes into account the subject's right to freedom of expression. The Classification Office notes that if the picture were to be submitted in a different context it may well receive a different classification.